

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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LEE J. DRUMMER,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 16-2982
	:	
TRUSTEES OF THE UNIVERSITY OF	:	
PENNSYLVANIA <i>t/d/b/a</i> HOSPITAL	:	
OF THE UNIVERSITY OF	:	
PENNSYLVANIA,	:	
Defendant.	:	
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AND NOW, this 11th day of December 2017, upon consideration of Defendant's Motion to Dismiss the Amended Complaint (Doc. No. 27) and the Opposition and Reply thereto, it is hereby **ORDERED** that the Motion is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. Defendant's Motion is **GRANTED** with respect to Plaintiff's age discrimination and disability discrimination and retaliation claims, and Counts I and III of the Amended Complaint are **DISMISSED WITHOUT PREJUDICE**.
2. Defendant's Motion is **DENIED** with respect to Plaintiff's FMLA interference and retaliation claims in Count V.
3. Defendant's Motion is **GRANTED** with respect to Plaintiff's sex and race discrimination claims based on his placement on a performance improvement plan and his termination, and Counts II and IV are **DISMISSED WITHOUT PREJUDICE** with respect to these claims.
4. Defendant's Motion is **DENIED** with respect Plaintiff's sex and race discrimination claims in Counts II and IV based on unequal pay.

Plaintiff is granted leave to file a second amended complaint on or before **January 11, 2018**. If Plaintiff fails to file a second amended complaint within that time, Defendant is directed to file an answer to the remaining claims in the Amended Complaint on or before **January 25, 2018**.

It is **SO ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFE, J.